

AN ACT

ENTITLED, An Act to require criminal background checks of school employees and to prohibit employment of certain persons in schools.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That chapter 13-10 be amended by adding thereto a NEW SECTION to read as follows:

Each person hired by a school district shall submit to a criminal background investigation, by means of fingerprint checks by the Division of Criminal Investigation and the Federal Bureau of Investigation. The school district shall submit completed fingerprint cards to the Division of Criminal Investigation before the prospective new employee enters into service. If no disqualifying record is identified at the state level, the fingerprints shall be forwarded by the Division of Criminal Investigation to the Federal Bureau of Investigation for a national criminal history record check. Any person whose employment is subject to the requirements of this section may enter into service on a temporary basis pending receipt of results of the criminal background investigation. The employing school district may, without liability, withdraw its offer of employment or terminate the temporary employment without notice if the report reveals a disqualifying record. Any person whose employment is subject to the requirements of this section shall pay any fees charged for the criminal record check. However, the school board or governing body may reimburse the person for the fees. Any person hired to officiate, judge, adjudicate, or referee an event conducted under the authority of the South Dakota High School Activities Association is not required to submit to a criminal background investigation as required in this section.

Section 2. That chapter 13-10 be amended by adding thereto a NEW SECTION to read as follows:

A school district may refuse to employ a person, either directly or by contract, who has been convicted of a crime involving moral turpitude as defined in subdivision 22-1-2(25).

No person may be employed by a school district, either directly or by contract, if the person has been convicted of a crime of violence as defined in subdivision 22-1-2(9), a sex offense as defined in § 22-22-30, or trafficking in narcotics.

Nothing in this section prohibits a school district from considering any criminal conviction in making a hiring decision.

Section 3. That chapter 13-10 be amended by adding thereto a NEW SECTION to read as follows:

Any person employed by a South Dakota school district on the effective date of this Act who remains continuously employed by the same South Dakota school district for consecutive school years is not required to submit to a criminal background check as provided in section 1 of this Act.

Section 4. That chapter 13-10 be amended by adding thereto a NEW SECTION to read as follows:

If a school board or governing body of any accredited school suspends an employee or an employee resigns or is terminated as a result of a criminal conviction, the superintendent or chief administrator shall, within ten days of the date of the suspension or the date the employment is severed, report the circumstances and the name of the employee to the Department of Education and Cultural Affairs. Any superintendent or chief administrator who fails to report under this section is subject to sanctions found in § 13-8-48.

Section 5. For purposes of this Act, the term, conviction, means a plea or verdict of guilty or a conviction following a plea of nolo contendere in this state or any other state. A duly certified copy of the court record is proof of the conviction and sentence.

An Act to require criminal background checks of school employees and to prohibit employment of certain persons in schools.

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I certify that the attached Act  
originated in the

HOUSE as Bill No. 1200

\_\_\_\_\_  
Chief Clerk

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\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1200  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office  
this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Ass. Secretary of State